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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,233	02/02/2004	Yousef A. Shahin	DIS1104	9621

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EXAMINER

BOECKMANN, JASON J

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary

Application No.

10/769,233

Applicant(s)

SHAHIN, YOUSEF A.

Examiner

Jason J. Boeckmann

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/2/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/2/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herstek et al (5,494,226) in view of Carey et al (5,749,528).

Herstek et al shows a spray nozzle assembly including: a housing (12) having a top wall, a bottom wall a peripheral wall extending between and being attached to said top and bottom walls, each of said top and bottom walls having a circular shape, said peripheral wall having a peripheral outer shoulder therein such that said bottom wall has a greater diameter than said top wall (figure1), said housing having an opening (34, 36) therein extending through said bottom and top walls, said opening including a top portion (36) adjacent to said top wall and a bottom portion (34) adjacent to said bottom wall, said bottom portion having a larger diameter with respect to said top portion such that an inner shoulder (40) is defined, said top wall having a slot (figure 2, formed by protrusions 38) extending therein and along a diameter of said top wall such that said top portion (36) of said opening opens into said slot,

an insert (14) being mounted within said opening and abutting said inner shoulder (40), said insert including an upper section (16) positioned within and having generally the same diameter as said top portion (36) and a lower section (20) positioned within and having generally the same diameter as said bottom portion (34), said insert having a bore (28) extending there through and through said upper and lower sections, said bore being generally aligned with an axis of said opening, said insert comprising a tungsten carbide material; and

wherein said housing may be positioned in a retaining nut and secured against the spray gun head such that paint ejected outwardly of the spray gun travels through said bore and outward of said slot (column 4, lines 25-8).

In addition, Herstek et al teaches that the housing (12) is formed from a softer more machineable material (column 4, line 35) but does not specifically disclose that the housing (12) is made from a plastic material. However, Carey et al shows two piece a spray nozzle assembly comprising a housing made form plastic (abstract, line 4), which is a softer material than tungsten carbide. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention, under the teachings of Carey et al, to make the housing (14) of Herstek et al's spray nozzle out of a plastic material in order to create a better seal between the insert (14) and the housing (12).

Additionally, Herstek does not specifically disclose that the bottom portion of the housing extends further away from the inner shoulder of the housing than the lower section of the insert extends from said inner shoulder of the housing. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to

extend the bottom portion of the housing further from the inner shoulder (40) in order to protect the fragile tungsten carbide nozzle insert (14) or to allow the housing (12) to be installed on a different type of spray gun.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herstek et al (5,494,226) in view of Carey et al (5,749,528), further in view of Calder (4,736,892).

Herstek et al as modified by Carey et al show all aspects of the applicant's invention of claim 1, but does not specifically disclose that the housing has a pair of vertical cutouts therein, each cutout extending into the top wall of the housing and toward the outer shoulder such that a pair of planar surfaces are formed in the peripheral wall, a ledge being defined at a bottom edge of each of the planar surfaces, each of the planar surfaces being orientated parallel to the slot. However, Calder shows a pair of vertical cutouts (76) in the housing (70), each cutout extending into the top wall of the housing and toward the outer shoulder such that a pair of planar surfaces are formed in the peripheral wall, a ledge being defined at a bottom edge of each of the planar surfaces each of the planar surfaces being orientated parallel to a slot (75). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention, under the teachings of Calder, to add a pair of vertical cutouts to the housing of Herstek et al as modified by Carey et al in order to engage indexing flats on a spray gun.

Allowable Subject Matter

Claims 3- 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lechler (4,988,043) shows a nozzle assembly with an insert. Donges (6,261,367) shows a nozzle housing including a slot and a peripheral wall.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Boeckmann whose telephone number is (571) 272-2708. The examiner can normally be reached on 7:30 - 5:00 m-f, first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3752

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JJB JJB 4/11/06



David A. Scherbel
Supervisory Patent Examiner
Group 3700